

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOARD OF TRUSTEES OF THE
EMPLOYEE PAINTERS' TRUST; BOARD
OF TRUSTEES OF THE WESTERN
WASHINGTON PAINTERS DEFINED
CONTRIBUTION PENSION TRUST;
BOARD OF TRUSTEES OF THE DISTRICT
COUNCIL NO. 5 APPRENTICESHIP AND
TRAINING TRUST FUND; BOARD OF
TRUSTEES OF THE INTERNATIONAL
PAINTERS AND ALLIED TRADES
INDUSTRY PENSION FUND; BOARD OF
TRUSTEES OF THE FINISHING TRADES
INSTITUTE; THE PAINTERS AND ALLIED
TRADES LABOR-MANAGEMENT
COOPERATION INITIATIVE; WESTERN
WASHINGTON SIGNATORY PAINTING
EMPLOYERS ASSOCIATION;
NORTHWEST WALL 7 CEILING
CONTRACTORS ASSOCIATION;
INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES DISTRICT
COUNCIL NO. 5,

Plaintiffs,

v.

Case No.: 2:23-cv-00483-TL

STIPULATED PROTECTIVE ORDER

MARIN BROS., INC., an Illinois corporation;
 ABEL MARIN, an individual; JENNIFER
 GARCIA, an individual; DOES & ROES I-X,

Defendants. _____

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. "CONFIDENTIAL" MATERIAL

"Confidential" material shall include the following documents and tangible things produced or otherwise exchanged:

- Documents, information, and materials regarding or relating to Defendants' finances and assets, including Defendants' tax returns and worksheets;
- Sensitive and/or non-public contractual terms with third-parties;
- Non-public business information that is treated confidentially by the producing party in the ordinary course of business, the disclosure of which may cause the producing party to be commercially disadvantaged or prejudiced;
- Personally identifiable information, including contact information, of any current or

1 former employee of a party; and

- 2 • Personally identifiable information, including contact information, of any non-party.

3 3. SCOPE

4 The protections conferred by this agreement cover not only confidential material (as
5 defined above), but also (1) any information copied or extracted from confidential material; (2)
6 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
7 conversations, or presentations by parties or their counsel that might reveal confidential
8 material. However, the protections conferred by this agreement do not cover information that
9 is in the public domain or becomes part of the public domain through trial or otherwise.
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11 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

12 4.1 Basic Principles. A receiving party may use confidential material that is
13 disclosed or produced by another party or by a non-party in connection with this case only for
14 prosecuting, defending, or attempting to settle this litigation. Confidential material may be
15 disclosed only to the categories of persons and under the conditions described in this agreement.
16 Confidential material must be stored and maintained by a receiving party at a location and in a
17 secure manner that ensures that access is limited to the persons authorized under this agreement.
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19 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
20 ordered by the court or permitted in writing by the designating party, a receiving party may
21 disclose any confidential material only to:
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23 (a) the receiving party’s counsel of record in this action, as well as
24 employees of counsel to whom it is reasonably necessary to disclose the information for
25 this litigation;

26 (b) the officers, directors, and employees (including in house counsel) of the

1 receiving party to whom disclosure is reasonably necessary for this litigation, unless the
2 parties agree that a particular document or material produced is for Attorney's Eyes
3 Only and is so designated;

4 (c) experts and consultants to whom disclosure is reasonably necessary for
5 this litigation and who have signed the "Acknowledgment and Agreement to Be Bound"
6 (Exhibit A);

7 (d) the court, court personnel, and court reporters and their staff;

8 (e) copy or imaging services retained by counsel to assist in the duplication
9 of confidential material, provided that counsel for the party retaining the copy or
10 imaging service instructs the service not to disclose any confidential material to third
11 parties and to immediately return all originals and copies of any confidential material;
12

13 (f) during their depositions, witnesses in the action to whom disclosure is
14 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be
15 Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered by the
16 court. Pages of transcribed deposition testimony or exhibits to depositions that reveal
17 confidential material must be separately bound by the court reporter and may not be
18 disclosed to anyone except as permitted under this agreement;
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20 (g) the author or recipient of a document containing the information or a
21 custodian or other person who otherwise possessed or knew the information.
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23 4.3 Filing Confidential Material. Before filing confidential material or discussing or
24 referencing such material in court filings, the filing party shall confer with the designating party,
25 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will
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1 remove the confidential designation, whether the document can be redacted, or whether a
2 motion to seal or stipulation and proposed order is warranted. During the meet and confer
3 process, the designating party must identify the basis for sealing the specific confidential
4 information at issue, and the filing party shall include this basis in its motion to seal, along with
5 any objection to sealing the information at issue. Local Civil Rule 5(g) sets forth the procedures
6 that must be followed and the standards that will be applied when a party seeks permission from
7 the court to file material under seal. A party who seeks to maintain the confidentiality of its
8 information must satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the
9 party filing the motion to seal. Failure to satisfy this requirement will result in the motion to
10 seal being denied, in accordance with the strong presumption of public access to the Court's
11 files.
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14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
16 party or non-party that designates information or items for protection under this agreement must
17 take care to limit any such designation to specific material that qualifies under the appropriate
18 standards. The designating party must designate for protection only those parts of material,
19 documents, items, or oral or written communications that qualify, so that other portions of the
20 material, documents, items, or communications for which protection is not warranted are not
21 swept unjustifiably within the ambit of this agreement. Mass, indiscriminate, or routinized
22 designations are prohibited. Designations that are shown to be clearly unjustified or that have
23 been made for an improper purpose (e.g., to unnecessarily encumber or delay the case
24 development process or to impose unnecessary expenses and burdens on other parties) expose
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1 the designating party to sanctions. If it comes to a designating party's attention that information
2 or items that it designated for protection do not qualify for protection, the designating party
3 must promptly notify all other parties that it is withdrawing the mistaken designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in this
5 agreement (see, e.g., second paragraph of section 5.2(b) below), or as otherwise stipulated or
6 ordered, disclosure or discovery material that qualifies for protection under this agreement must
7 be clearly so designated before or when the material is disclosed or produced.

8
9 (a) Information in documentary form: (e.g., paper or electronic documents
10 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
11 proceedings), the designating party must affix the word "CONFIDENTIAL" to each
12 page that contains confidential material. If only a portion or portions of the material on
13 a page qualifies for protection, the producing party also must clearly identify the
14 protected portion(s) (e.g., by making appropriate markings in the margins).

15
16 (b) Testimony given in deposition or in other pretrial proceedings: the
17 parties and any participating non-parties must identify on the record, during the
18 deposition or other pretrial proceeding, all protected testimony, without prejudice to
19 their right to so designate other testimony after reviewing the transcript. Any party or
20 non-party may, within fifteen days after receiving the transcript of the deposition or
21 other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as
22 confidential. If a party or non-party desires to protect confidential information
23 at trial, the issue should be addressed during the pre-trial conference.

24
25 (c) Other tangible items: the producing party must affix in a prominent place
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1 on the exterior of the container or containers in which the information or item is stored
2 the word "CONFIDENTIAL." If only a portion or portions of the information or item
3 warrant protection, the producing party, to the extent practicable, shall identify the
4 protected portion(s).

5
6 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
7 designate qualified information or items does not, standing alone, waive the designating party's
8 right to secure protection under this agreement for such material. Upon timely correction of a
9 designation, the receiving party must make reasonable efforts to ensure that the material is
10 treated in accordance with the provisions of this agreement.

11 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

12 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
13 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
14 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
15 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
16 challenge a confidentiality designation by electing not to mount a challenge promptly after the
17 original designation is disclosed.

18
19 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
20 regarding confidential designations without court involvement. Any motion regarding
21 confidential designations or for a protective order must include a certification, in the motion or
22 in a declaration or affidavit, that the movant has engaged in a good faith meet and confer
23 conference with other affected parties in an effort to resolve the dispute without court action.
24 The certification must list the date, manner, and participants to the conference. A good faith
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1 effort to confer requires a face-to-face meeting or a telephone conference.

2 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
3 intervention, the designating party may file and serve a motion to retain confidentiality under
4 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
5 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
6 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
7 other parties) may expose the challenging party to sanctions. All parties shall continue to
8 maintain the material in question as confidential until the court rules on the challenge.
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10 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
11 LITIGATION

12 If a party is served with a subpoena or a court order issued in other litigation that
13 compels disclosure of any information or items designated in this action as
14 “CONFIDENTIAL,” that party must:
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16 (a) promptly notify the designating party in writing and include a copy of
17 the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or order to
19 issue in the other litigation that some or all of the material covered by the subpoena or
20 order is subject to this agreement. Such notification shall include a copy of this
21 agreement; and
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23 (c) cooperate with respect to all reasonable procedures sought to be pursued
24 by the designating party whose confidential material may be affected.

25 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL
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1 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
2 confidential material to any person or in any circumstance not authorized under this agreement,
3 the receiving party must immediately (a) notify in writing the designating party of the
4 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
5 protected material, (c) inform the person or persons to whom unauthorized disclosures were
6 made of all the terms of this agreement, and (d) request that such person or persons execute the
7 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.
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9 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
10 MATERIAL

11 When a producing party gives notice to receiving parties that certain inadvertently
12 produced material is subject to a claim of privilege or other protection, the obligations of the
13 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
14 provision is not intended to modify whatever procedure may be established in an e-discovery
15 order or agreement that provides for production without prior privilege review. The parties
16 agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.
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18 10. NON TERMINATION AND RETURN OF DOCUMENTS

19 Within 60 days after the termination of this action, including all appeals, each receiving
20 party must return all confidential material to the producing party, including all copies, extracts
21 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
22 destruction. Notwithstanding this provision, counsel are entitled to retain one archival copy of
23 all documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
24 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
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1 work product, even if such materials contain confidential material. The confidentiality
2 obligations imposed by this agreement shall remain in effect until a designating party agrees
3 otherwise in writing or a court orders otherwise.
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5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**
6

7 BUCHALTER
8 A Professional Corporation

9 DATED: 2/29/2024

/s/Michelle Q. Pham
Brad P. Thoreson, WSBA #18190
bthoreson@buchalter.com
Jeffrey R. Kaatz, WSBA #49709
jkaatz@buchalter.com
Michelle Q. Pham, WSBA #44286
mpham@buchalter.com

1420 Fifth Avenue, Suite 3100
Seattle, WA 98101-1337
Telephone: 206.319.7052

*Attorneys for Defendants Marin Bros.,
Inc., Abel Marin, and Jennifer Garcia*

18 CHRISTENSEN JAMES & MARTIN
19

20 DATED: 2/27/2024

/s/Wesley J. Smith
Wesley J. Smith, WSBA #51934
wes@cjmlv.com

7440 W. Sahara Ave.
Las Vegas, NV 89021
Telephone: 702.255.1718

*Attorneys for Plaintiffs Board of Trustees
of the Employee Painters' Trust, et al.*

1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of
3 any documents, electronically stored information (ESI) or information, whether inadvertent or
4 otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal
5 or state proceeding, constitute a waiver by the producing party of any privilege applicable to
6 those documents, including the attorney-client privilege, attorney work-product protection, or
7 any other privilege or protection recognized by law. This Order shall be interpreted to provide
8 the maximum protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid.
9 502(b) do not apply. Nothing contained herein is intended to or shall serve to limit a party's
10 right to conduct a review of documents, ESI or information (including metadata) for relevance,
11 responsiveness and/or segregation of privileged and/or protected information before
12 production. Information produced in discovery that is protected as privileged or work product
13 shall be immediately returned to the producing party.
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16 **DATED: March 5, 2024**

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19 _____
20 Tana Lin
21 United States District Judge
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